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# **Committee on Claims**

**Wednesday**

**November 9, 2005**

**9:45 A.M.**

**28 House Office Building**

**ACTION PACKET**

**Allan G. Bense  
Speaker**

**John Quinones  
Chair**

# COMMITTEE MEETING REPORT

## Claims Committee

11/9/2005 9:45:00AM

Location: 28 HOB

### Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
John Quinones (Chair)	X		
Phillip Brutus		X	
Charles Dean	X		
Dorothy Hukill	X		
Priscilla Taylor	X		
<b>Totals:</b>	<b>4</b>	<b>1</b>	<b>0</b>

# COMMITTEE MEETING REPORT

## Claims Committee

11/9/2005 9:45:00AM

Location: 28 HOB

PCB CLAM 06-01 : Joint Legislative Claims Committee

☒ Favorable - Amendment Adopted

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Phillip Brutus			X		
Charles Dean	X				
Dorothy Hukill	X				
Priscilla Taylor	X				
John Quinones (Chair)	X				
Total Yeas: 4		Total Nays: 0			

### Appearances:

Patrick Bell (Lobbyist) - Proponent

Lamonica & Bell

215 S. Monroe St., Ste. 614

Tallahassee FL 32301

Phone: (850) 224-8282

Don Lamonica (Lobbyist) - Information Only

Lamonica & Bell

214 S. Monroe St.

Tallahassee FL 32301

Phone: (850) 224-8282

Debra Henley (Lobbyist) - Proponent

Academy of Florida Trial Lawyers

218 S. Monroe St.

Tallahassee FL 32301

Phone: (850) 224-9403

BILL

ORIGINAL

YEAR

A bill to be entitled  
An act relating to the Joint Legislative Claims Committee;  
creating s. 11.81, F.S.; establishing the Joint  
Legislative Claims Committee; providing for membership and  
appointment; providing for governance of the committee by  
joint rules; providing for the designation of a special  
master; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 11.81, Florida Statutes, is created to  
read:

11.81 Joint Legislative Claims Committee.-

(1) There is created a standing joint committee of the  
Legislature designated the Joint Legislative Claims Committee,  
composed of ten members as follows: five members of the Senate  
to be appointed by the President of the Senate, and five members  
of the House of Representatives to be appointed by the Speaker  
of the House of Representatives. The terms of members shall be  
for 2 years and shall run from the organization of one  
Legislature to the organization of the next Legislature.  
Vacancies occurring during the interim period shall be filled in  
the same manner as the original appointment. The Speaker of the  
House of Representatives shall appoint the chair in the odd  
years and the vice chair in even years, and the President of the  
Senate shall appoint the chair in even years and the vice chair  
in odd years, from among the committee membership.

BILL

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YEAR

28        (2) The committee shall be governed by joint rules of the  
 29        Senate and House of Representatives which shall remain in effect  
 30        until repealed or amended by concurrent resolution.

31        (3) The committee may, at anytime, regardless of whether  
 32        the Legislature is in session, and in connection with a  
 33        currently-filed claim bill, exercise all powers vested in a  
 34        standing or select committee pursuant to s. 11.143.

35        (4) The special master shall be designated jointly by the  
 36        Speaker and the President, and shall serve at the pleasure of  
 37        each presiding officer.

38        Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **PCB 06-01**

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

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1 Council/Committee hearing bill: Claims

2 Representative(s) Quinones offered the following:

3  
4 **Amendment**

5 Remove line(s) 37 and insert:  
6 the presiding officers.

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# COMMITTEE MEETING REPORT

## Claims Committee

11/9/2005 9:45:00AM

Location: 28 HOB

PCB CLAM 06-02 : Adoption of Joint Rule 8 regarding the Joint Legislative Claims Committee

☒ Favorable - Amendments Adopted

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Phillip Brutus			X		
Charles Dean	X				
Dorothy Hukill	X				
Priscilla Taylor	X				
John Quinones (Chair)	X				
Total Yeas: 4		Total Nays: 0			

### Appearances:

Patrick Bell (Lobbyist) - Proponent  
Lamonica & Bell  
215 S. Monroe St., Ste. 614  
Tallahassee FL 32301  
Phone: (850) 224-8282

Don Lamonica (Lobbyist) - Proponent  
Lamonica & Bell  
214 S. Monroe St.  
Tallahassee FL 32301  
Phone: (850) 224-8282

Debra Henley (Lobbyist) - Proponent  
Academy of Florida Trial Lawyers  
218 S. Monroe St.  
Tallahassee FL 32301  
Phone: (850) 224-9403

BILL

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House Concurrent Resolution

A concurrent resolution proposing the adoption of Joint Rule 8, Joint Rules of the Florida Legislature, relating to the Joint Legislative Claims Committee.

WHEREAS, Article X, section 13 of the State Constitution gives the Legislature the exclusive authority to make provision "by general law for bringing suit against the state as to all liabilities now existing or hereafter originating;" and

WHEREAS, the Legislature provided for bringing suit against the state and its agencies and subdivisions by the enactment of section 768.28, F.S.; and

WHEREAS, section 768.28, F.S., is a limited waiver of sovereign immunity and provides caps on the amount of a claim that may be paid thereunder. Judgments or settlements against uninsured state agencies or subdivisions that exceed the statutory caps may only be paid by further act of the Legislature; and

WHEREAS, Joint Rule 8 establishes an internal process of the Legislature and does not create any new rights or remedy; and

WHEREAS, Joint Rule 8 is not intended and shall not be construed to create any right to legislative hearing or consideration of a claim bill; and

WHEREAS, Joint Rule 8 shall not be construed to waive any defense of sovereign immunity or to increase the limits of liability on behalf of the state or any person or entity subject to the provisions of section 768.28, F.S.; NOW, THEREFORE,



BILL

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YEAR

Be It Resolved by the House of Representatives of the State of Florida, the Senate Concurring:

That Joint Rule 8, Joint Rules of the Florida Legislature, is hereby created to read:

Joint Rule Eight

Joint Legislative Claims Committee

8.1-Filing Claim Bills

(1) All claim bills filed in the Florida Legislature shall be considered through the procedure set out in this joint rule.

(2) Claim bills shall be filed with the Secretary of the Senate and the Clerk of the House of Representatives, as required by the rules of each chamber.

(3) Local claim bills must be filed by a member of the legislative delegation where the claimant resides. If the claimant resides outside of the state, a local claim bill may be filed by any member. General claim bills may be filed by any member.

(4) Upon filing, each claim bill shall be immediately referred to the Joint Legislative Claims Committee. The bill may also be referred to one appropriations committee in each chamber, at the discretion of the presiding officer of each chamber. No additional referrals shall be made.

(5) After a claim bill has been voted favorably by the Joint Legislative Claims Committee, the bill shall be reported to the chamber in which it originated for referral to an appropriations committee, or to be placed directly on the calendar of each chamber in accordance with the rules of that chamber.

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(6) The joint committee is authorized to request that claim bills be placed on a consent calendar in both chambers.

8.2-Appointment of Members of the Joint Legislative Claims Committee; powers and duties.

(1) There shall be a Joint Legislative Claims Committee, the membership of which shall consist of five members of the House of Representatives appointed by the Speaker of the House of Representatives and five members of the Senate, appointed by the President of the Senate.

(2) The Joint Legislative Claims Committee shall meet at times and places necessary to perform the functions assigned to it.

(3) Action by a majority vote of the membership of the joint committee shall control and be conclusive on any matter considered by the Joint Legislative Claims Committee.

(4) The Speaker of the House of Representatives shall appoint the chair in the odd years and the vice chair in even years, and the President of the Senate shall appoint the chair in even years and the vice chair in odd years, from among the committee membership.

(5) The salaries and expenses of the staff of the Joint Legislative Claims Committee shall be paid from the Legislature's approved operating budget.

(6) The chair of the joint committee shall have the authority to set the committee's agenda, and set priorities for special master consideration.

(7) The joint committee is authorized to publish biannually a manual detailing the policies and procedures of the joint committee, subject to the approval by the presiding officers.

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8.3-Hearings

(1) A special master shall have the authority to control all proceedings before the special master, including the authority to:

(a) conduct hearings, prehearing conferences, and management conferences pursuant to reasonable notice;

(b) allow discovery if deemed beneficial to the consideration of the claim bill;

(c) administer oaths to witnesses;

(d) admit or reject evidence;

(e) make arrangements for preparing a record of the proceedings;

(f) accept tangible and documentary evidence;

(g) issue subpoenas as provided by law; and

(h) take such other steps as are reasonably necessary to conduct a thorough and orderly investigation of the basis for the claim bill.

(2) In all proceedings before the special master, the provisions of the Florida Rules of Civil Procedure and the Florida Evidence Code shall be instructive; however, at the discretion of the special master, the proceedings may be as informal as necessary to achieve an equitable disposition of the claim bill.

(3) Upon completion of the hearing and other proceedings incidental thereto, the special master shall prepare and submit a report to the Joint Legislative Claims Committee, which report shall contain findings of fact, conclusions of law, collateral sources of recovery and recommendations regarding the disposition of the claim bill.

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116  
117       (4) Stipulations as to the amount of awards entered into by  
118 the parties are not binding upon the special master or upon the  
119 House of Representatives, the Senate, or any member of any  
120 committee thereof.

121       (5) The hearing and consideration of a claim bill shall be  
122 held in abeyance until all available administrative and judicial  
123 remedies have been exhausted, except that the hearing and  
124 consideration of a claim that is still within the judicial or  
125 administrative system may proceed when the parties have executed  
126 a written settlement agreement.

127       (6) The special master and the joint committee are  
128 authorized to examine lobbying fees regarding any filed claim  
129 bill. Lobbying fees shall be presumed excessive if they are more  
130 than:

131       (a) 3% of the total amount awarded in the bill for a claim  
132 that is settled when filed; or

133       (b) 5% of the total amount awarded in the bill for a claim  
134 that is not settled when filed.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **PCB 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

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1 Council/Committee hearing bill: Claims

2 Representative(s) Quinones offered the following:

3  
4 **Amendment**

5 On lines 3, 19, 21, 24, 32, 34, 36, 60, and 87  
6 change the numeral "8" to "10"

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **PCB 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

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1 Council/Committee hearing bill: Claims

2 Representative(s) Quinones offered the following:

3  
4 **Amendment**

5 Between line(s) 59 and 60 insert:

6 (7) Notwithstanding any other rule of the House of  
7 Representatives or rule of the Senate to the contrary, a member  
8 shall not be restricted in the number of claim bills that he or  
9 she may file for a regular session.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. **PCB 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

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1 Council/Committee hearing bill:

2 Representative(s) Hukill offered the following:

3  
4 **Amendment**

5 On line 43 remove the first "the"  
6 and insert: any

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

Bill No. **PCB 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

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1 Council/Committee hearing bill:

2 Representative(s) Hukill offered the following:

3  
4 **Amendment**

5 On line 43 after the word "resides" insert:

6  
7 or where any claimant resided when the cause of action occurred

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# COMMITTEE MEETING REPORT

## Claims Committee

11/9/2005 9:45:00AM

**Location:** 28 HOB

### Summary:

#### Claims Committee

*Wednesday November 09, 2005 09:45 am*

PCB CLAM 06-01	Favorable	Yeas: 4	Nays: 0
PCB CLAM 06-02	Favorable	Yeas: 4	Nays: 0